EXCLUSION REQUEST NO. 1

a. Product Name: Hot-Rolled Dual Phase Steel

HTSUS Classification: 7225.19.0000

b. Technical Description:

Hot-Rolled Dual Phase Steel ("Dual Phase Steel") is a specialty hot-rolled steel product with a ferritic-martensitic microstructure that produces both ductility or formability and high tensile strength. It is used to manufacture lightweight but durable wheels for a variety of automobile models, as well as other automotive products. Details concerning the use of this product for manufacturing automotive wheels are included in a letter to the U.S. International Trade Commission ("ITC") dated September 10, 2001 from Topy Corporation requesting an exclusion for Dual Phase Steel. A copy of this letter is included as **Attachment 1-A**.

Dual Phase Steel was expressly excluded from the antidumping investigation and order on certain hot-rolled flat-rolled carbon-quality steel products from Japan. The Commerce Department defined Dual Phase Steel in that exclusion as follows:

> Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm^2 and 640 N/mm^2 and an elongation percentage $\geq$ 26 percent for thicknesses of 2 mm and above; or (ii) a tensile strength between 590 N/mm^2 and 690 N/mm^2 and an elongation percentage $\geq$ 25 percent for thicknesses of 2 mm and above.

See Antidumping Duty Order; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan, 64 Fed. Reg. 34,778, 34,779 (June 29, 1999).

c. Basis for Exclusion Request:

As detailed below, Dual Phase Steel should be excluded from the scope of any import restrictions that the President may impose under Section 203 because (a) Dual Phase Steel is a

unique product; (b) NSC's U.S. customer is unable to procure either Dual Phase Steel or a substitute product from U.S. steel mills; (c) U.S. steel producers expressly support the exclusion; and (d) Dual Phase Steel was explicitly excluded from the Commerce's Department's 1998-1999 antidumping investigation and order on certain hot-rolled flat-rolled carbon-quality steel products from Japan.

(a) Dual Phase Steel Is A Unique Product

Dual Phase Steel was developed to provide a combination of ductility and formability and good fatigue resistance in product applications after forming. These advantages of Dual Phase Steel result from NSC's manufacturing processes for this product. Although Dual Phase Steel is similar in composition to other high-strength low-alloy steels, Dual Phase Steel is "phase hardened" in processing, resulting in a ferritic-martensitic microstructure.[1] Most other high-strength low-alloy steels rely on "precipitation hardening" to impart favorable mechanical characteristics. However, such precipitation-hardened steels do not have the fatigue life of Dual Phase Steel. Accordingly, as explained below, the United States end-user has not found other steels to be acceptable substitutes for Dual Phase Steel.

(b) Neither Dual Phase Nor A Substitute Steel Can Be Procured From U.S. Mills

The one end-user of NSC's Dual Phase Steel in the United States is Topy Corporation (Topy) of Frankfurt, Kentucky. As reflected in Topy's September 10, 2001 ITC exclusion request included in **Attachment 1-A**, Topy uses Dual Phase Steel to manufacture the disc

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[1] This phase hardening process involves both the martensitic and ferritic phases, each of which relates to particular mechanical properties of the steel. Specifically, the martensitic phase determines the steel's tensile strength and the ferritic phase determines the ductility of the steel.

portion of certain automotive wheels. Topy requires Dual Phase Steel to produce lightweight yet sturdy wheels to meet the requirements of its U.S. automotive customers (who are detailed in Topy's request).

As reflected in its request, Topy has determined that, for the automotive wheels in which Dual Phase Steel is used, "{n}o other steel product is comparable to Dual Phase Steel in terms of its reduced weight and fatigue resistance features." Topy also explains that, although it has attempted to obtain alternate materials from U.S. sources, "these attempts have not yielded positive results" and "Topy cannot use any other products manufactured by the U.S. domestic steel mills as a substitute for the Dual Phase Steel to produce lightweight wheels that improve fuel economy."

(c) *The Domestic Industry Supports The Exclusion For Dual Phase Steel*

Both U.S. Steel Corporation and Bethlehem Steel Corporation have expressly agreed to the exclusion of Dual Phase Steel from any remedy the President may impose under Section 203. Thus, an October 4, 2001 letter from U.S. Steel Automotive to Topy states that (emphasis added) "*U.S. Steel LLC agrees to support your request to the International Trade Commission to exclude hot-rolled dual-phased steel from any relief that may be recommended in the Section 201 proceedings.*" This letter also notes that "U.S. Steel does not currently commercially produce this product," and that Topy Corporation should "feel free to use this letter as support of exclusion of dual phase, hot-rolled sheet in any exclusion-request petitions you may be preparing." A copy of this letter was included with Topy's letter to the ITC dated October 9, 2001 and is included in **Attachment 1-B**.

Similarly, an October 16, 2001 letter to Topy from Bethlehem Steel Corporation states that (emphasis added) "*Bethlehem Steel supports the exclusion of Dual Phase Hot rolled product*

from the 201 Trade Action." The letter also states that "once the request for exclusions is in the ITC system, Bethlehem Steel, when asked to vote, will vote to exclude Dual Phase Hot Rolled from the trade case." A copy of this letter was included with Topy's letter to the ITC dated October 17, 2001 and is included in **Attachment 1-C**.

(d) Dual Phase Steel Was Expressly Excluded From The Commerce's Department's 1998-1999 Antidumping Investigation

As noted, in the 1998-1999 antidumping investigation of certain hot-rolled flat-rolled carbon-quality steel products from Japan, the Commerce Department expressly excluded Dual Phase Steel from the scope of the investigation and order. This exclusion for Dual Phase Steel was also expressly requested by the petitioners in that case, as reflected in their January 27, 1999 letter filed with the Commerce Department. (A copy of that letter is included as **Attachment 1-D**.) As reflected in their letter, petitioners expressly requested the Department to "amend the scope of these investigations to exclude certain hot-rolled steel sheet commonly referred to as 'dual phase' steel used to produce automotive wheel assemblies."

d. Names and Locations of Any Producers:

As noted, there are no producers of Dual Phase Steel in the United States. In addition to NSC, Dual Phase Steel is manufactured in Japan by Kawasaki Steel Corporation and Kobe Steel. These two Japanese steel mills join in NSC's request to exclude Dual Phase Steel from the scope of any relief granted in this investigation.

e. Total U.S. Consumption:

NSC does not have information on total U.S. consumption of Dual Phase Steel. However, a reasonable estimate is available from the figures on total exports to the United States by NSC, Kawasaki and Kobe of Dual Phase Steel as follows:

[Index: 1996 = 1.00]

	1996	1997	1998	1999	2000
Qty (ST)	[1.00	1.21	1.15	1.33	1.11]
Value US $	[1.00	1.22	1.15	1.33	1.11]

NSC [

]. NSC's projections for future U.S. consumption, based on its exports to the United States, are as follows:

	2001	2002	2003	2004	2005
Qty (ST)	[				]
Value US $	[				]

f. Total U.S. Production:

As noted, there is no U.S. production of Dual Phase Steel, as confirmed in the letters from U.S. Steel Corporation and Bethlehem Steel Corporation included in **Attachments 1-B** and **1-C**.

g. U.S.-Produced Substitute, Total U.S. Production of Substitute, and the Names of Any U.S. Producers of the Substitute:

As noted, there are no U.S.-produced substitutes for Dual Phase Steel, as confirmed in the September 10, 2001 letter from Topy included in **Attachment 1-A**.

Attachment 1-A

TOPY CORPORATION
P.O. BOX 1010, CHENAULT ROAD
FRANKFORT, KY 40602

PHONE: (502) 695-6163
FAX: (502) 875-5424 STEE
(502) 695-7112 ALUM

September 10, 2001

Public Version

By Facsimile Correspondence

Proprietary Document

Proprietary Information on page 4.
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The Honorable Donna R. Koehnke
Secretary
United States International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: **Section 201 Investigation of Steel Products (Inv. No. TA-201-73)**

Dear Ms. Koehnke:

Topy Corporation ("Topy") requests that the International Trade Commission ("the Commission") exclude certain Hot-Rolled Dual-Phase Steel ("Dual Phase Steel") steel from the scope of the above-referenced investigation or, alternatively, from any imposed remedies (if the Commission issues an affirmative determination in the injury phase of the investigation). As explained below, Dual-Phase Steel is critical to Topy's business because certain disc designs can only be manufactured by using Dual Phase Steel and this steel is not available from domestic sources. This Dual Phase Steel was excluded from the scope of the 1998-1999 antidumping investigation involving hot-rolled steel from Japan, which defined this excluded product as follows:

> Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm^2 and 640 N/mm^2 and an elongation percentage $\geq$ 26 percent for thicknesses of 2mm

and above; or (ii) a tensile strength between 590 N/mm^2 and 690 N/mm^2 and an elongation percentage ≥ 25 percent for thicknesses of 2mm and above.

See Antidumping Duty Order; *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan*, 64 Fed. Reg. 34,778, 34,779 (June 29, 1999).

Topy is one of the largest domestic producers of wheels for passenger vehicles and light trucks. Our headquarters and plant are located in Frankfort, Kentucky. We have built up our U.S. manufacturing operations since 1985 and now employ over 500 persons. We supply wheels to many automotive OEMs, including Saturn, Ford, Nissan and Honda. Most of the steel for Topy's wheels is purchased from domestic producers (USX and Bethlehem), but certain wheel disc designs require Dual Phase Steel.

We understand that the pending Section 201 investigation could result in quotas or higher tariffs applicable to imports of Dual Phase Steel. If this occurs, then Topy could be forced to cease production of its lightweight wheels, either due to our inability to obtain Dual Phase Steel (because of quotas) or because our wheel prices would be uncompetitive (due to higher tariffs). Changing the design of our wheels to utilize different steel material is not a realistic option for us because a change in material would require new qualification with our automotive customers and design changes may not be ultimately possible for certain wheels. This option also would require a tremendous amount of time and expense and, in some cases, may not produce a result that is acceptable to us or our automotive customers.

Given the clear need for this specialty steel, and the unavailability of this product domestically, we urge the Commission to exclude Dual Phase Steel from the scope of this proceeding or remedy, as it was excluded from the earlier antidumping investigation.

A. Dual Phase Steel is a Unique and Superior Product and Is Not Available From Domestic Steel Suppliers

Topy uses Dual Phase Steel exclusively in the disc portion of certain automotive wheels, which it manufactures for domestic and foreign automobile makers located in the United States. These automotive end-users and the models for which these wheels are supplied include: GM (Saturn – all passenger car models), Ford (light pick-up truck models), Mazda (626 model), Honda (Civic, Accord and Odyssey models) and Isuzu (Rodeo model). An illustration of the wheels we manufacture utilizing Dual Phase Steel is provided in the Topy product brochure included as Exhibit A to this letter.

The key customer requirements for the automotive wheels that Topy produces are reduced weight and excellent fatigue resistance. Dual Phase Steel has a unique "ferritic-martensitic" microstructure, making it a superior product to other steels in terms of both ductility and low tensile strength during the forming process and fatigue resistance performance. Dual Phase Steel is the only steel that performs well in Topy's pressing and drawing operations (forming process), and this steel does not result in a product that is compromised in terms of fatigue-resistant qualities. As a result, Topy can produce high quality wheel discs that respond to the demands of the automakers to reduce weight and improve fuel economy.

No other steel product is comparable to Dual Phase steel in terms of its reduced weight and fatigue resistance features. In the past, Topy has attempted to search for or develop alternative materials from United States sources. However, these attempts have not yielded positive results. Topy cannot use any other product manufactured by the U.S. domestic steel mills as a substitute for Dual Phase Steel to produce lightweight wheels that improve fuel economy. Indeed, since the 1998-1999 antidumping investigations on hot-rolled steel imports

when domestic steel producers supported an exclusion for Dual Phase Steel (see below), no domestic steel supplier has indicated to us that it can make Dual Phase Steel for Topy's uses.

Given the domestic unavailability of Dual Phase Steel or acceptable similar products, we have continued to import Dual Phase Steel from NSC. Below are the figures showing the amount of Dual Phase steel we have imported since 1996.

(Metric Tons)

1996	1997	1998	1999	2000	Jan-June 2001
[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

B. Dual Phase Steel Was Excluded from the 1998-1999 Antidumping Investigation on Hot-Rolled Steel and, Likewise, Should Be Excluded from the Pending Section 201 Investigation.

During the 1998-1999 antidumping investigation on hot-rolled steel, Topy communicated with USX and Bethlehem about the difficulty it would experience if Dual Phase Steel were subject to antidumping duties and requested their support in excluding this specialty hot-rolled product from the antidumping investigation. We were able to obtain consent from the petitioning domestic industry to exclude Dual Phase Steel from the scope of the antidumping investigation. Indeed, the domestic industry filed a letter expressly requesting exclusion of Dual Phase Steel from the investigation. *See* Exhibit B (Petitioners' letter to Commerce Department dated January 27, 1999).

Although Dual Phase Steel was excluded from the 1998-1999 hot-rolled steel investigation due to the unavailability of this product in the domestic market, this specialty steel was not identified as an "excluded product" in the United States Trade Representative's June 22, 2001 letter to the Commission requesting the Commission to conduct this Section 201 investigation. Topy does not understand why Dual Phase Steel was not excluded from this Section 201 investigation, and does not consider it reasonable to impose trade restrictions against

a specialty steel product such as Dual Phase Steel that is not manufactured by domestic steel mills.

As noted above, Topy has not been contacted by any U.S. steel mill since the 1998-1999 antidumping investigation to indicate that they can manufacture Dual Phase Steel. In this situation, domestic steel mills simply cannot be injured by imports of Dual Phase Steel. Further, as stated above, if Dual Phase Steel imports are subject to trade restrictions, Topy's business will be seriously harmed and its automotive customers will not be able to obtain the lightweight wheels that Topy currently supplies to them. Accordingly, we request that the Commission exclude Dual Phase Steel from the scope of this investigation or from any resulting remedies.

Thank you for your attention to this request. If the Commission has any questions regarding this request, please contact me at (502) 695-6163.

Sincerely,

Samuel L. Amburgey
General Manager - Purchasing

70183537_1.DOC

Attachment 1-B

USS Automotive
5850 New King Court
Troy, Michigan 48098-2692

PUBLIC VERSION

Thursday, October 04, 2001

Mr. H. Okamoto
President and CEO
Topy Corporation
980 Chenault Road – Industrial Park
P.O. Box 1010
Frankfort, KY 40602

Subject: *Steel Section 201 Case*

Dear Mr. Okamoto,

U. S. Steel LLC agrees to support your request to the International Trade Commission to exclude hot-rolled dual-phase steel from any relief that may be recommended in the Section 201 proceedings. Although U. S. Steel does not currently commercially produce this product, we are well advanced in our development of this product and are accepting trial material requests for all applications. We count on your support of this development and are most willing to work with Topy to qualify our material for your applications and thereby provide a local source with attendant shorter supply lead times.

Please feel free to use this letter as support of exclusion of dual phase, hot-rolled sheet in any exclusion-request petitions you may be preparing.

Yours truly,

P J Alvarado

Peter J. Alvarado
Director-Sales
Automotive Transplants

PUBLIC VERSION

Attachment 1-C

Bethlehem Steel Corporation

NASHVILLE SALES OFFICE
101 WESTPARK DRIVE, SUITE 140
BRENTWOOD, TN 37027-5003

PHONE: (615) 373-0045

October 16, 2001

Mr. Louis Allegra
Executive Vice President
Topy Corporation
980 Chenault Road
P.O. Box 1010
Frankfort, KY 40602

Dear Lou:

Confirming our recent conversation, Bethlehem Steel supports the exclusion of Dual Phase Hot Rolled product from the 201 Trade Action.

It is my understanding that Topy must submit an Exclusion Request Data Sheet to the United States International Trade Commission by October 17, 2001 in order for the exclusion to be considered.

Once the request for exclusion is in the ITC system, Bethlehem Steel, when asked to vote, will vote to exclude Dual Phase Hot Rolled from the trade case.

Lou, we value Topy's business and look forward to enhancing our business relationship in the future.

Sincerely,

Bethlehem Steel Corporation

Jack Toth
Regional Sales Manager

cc: M. Takahashi – Itochu
K. Pearson - Bethlehem Steel Corporation

Attachment 1-D

January 27, 1999

Inv. Nos. A-588-846
A 351-828
A-821-809
C-351-829
Investigations
Total Pages:5

PUBLIC DOCUMENT

DELIVERY BY HAND

The Honorable William M. Daley
Secretary of Commerce
Attn: Import Administration
Central Records Unit, Room B-099
U.S. Department of Commerce
Pennsylvania Avenue and 14th Street, N.W.
Washington, D.C. 20230

The Honorable Donna R. Koehnke Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436

Re: **Antidumping Duty Investigations of Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation; Countervailing Duty Investigation of Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil**

Dear Secretaries Daley and Koehnke:

On behalf of Bethlehem Steel Corporation, California Steel Industries, Gallatin Steel Company, Geneva Steel, Gulf States Steel, Inc., IPSCO Steel Inc., Ispat Inland

Steel, LTV Steel Company, Inc., National Steel Corporation[1], Steel Dynamics, U. S. Steel Group, a unit of USX Corporation, and Weirton Steel Corporation, Petitioners in the above-captioned investigations, we request that the U.S. Department of Commerce (the "Department") amend the scope of these investigations to exclude certain hot-rolled steel sheet commonly referred to as "dual phase" steel used to produce automotive wheel assemblies.

Petitioners agree that the product described below should be excluded from the scope of these investigations:

> Hot-rolled dual phase steel - phase-hardened steel that has a primarily ferritic-martensitic microstructure, contains between 0.9% and 1.5% silicon by weight, and is further characterized by either (i) tensile strength between 540 N/square-mm and 640 N/square-mm and an elongation percentage greater than or equal to 26% for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/square-mm and 690 N/square-mm and an elongation percentage greater than or equal to 25% for thicknesses of 2 mm and above.

This request for amendment is filed pursuant to 19 C.F.R. 351.202(e). Petitioners certify to the Department that this request has been filed on the same day with the U.S. International Trade Commission.

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[1] National Steel is not a petitioner in the case regarding Japan.

Please contact any of the undersigned should you require clarification of any aspect of this submission.

Respectfully submitted,

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cc: Richard Weible
Samantha Denenberg
Steve Bezirgania